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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,464	08/20/2003	David Darling	223957	5935

23460 7590 01/11/2007		**EXAMINER**
LEYDIG VOIT & MAYER, LTD		EPSHTEYN, ALEXANDER
TWO PRUDENTIAL PLAZA, SUITE 4900		
180 NORTH STETSON AVENUE	**ART UNIT**	**PAPER NUMBER**
CHICAGO, IL 60601-6731	3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _20 August 2003_.

2a)☐ This action is **FINAL.** 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-40_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-40_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *. See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-SB/08)
    Paper No(s)/Mail Date _4/10/06, 9/6/05, 12/10/04._

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Claim Objections

Claims 6-9, 11, 12, 33, 34, 37, and 38 are objected to because of the following

informalities: Authorisation should be spelled authorization.

Claim 15 is objected to because of the following informalities: "Thecheat" should

be "The cheat."

Claim 26 is objected to because of the following informalities: "a video game

said" should be changed to "a video game including said."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 16, 26-32, 39, and 40 are rejected under 35 U.S.C. 102(b) as being

anticipated by Swanberg et al. (US Patent Publication 2002/0077180).

Regarding claim 1, Swanberg teaches of a verification system for enabling video

games console to implement additional features of game play (abstract). Some of these

additional features can be cheat codes [0018]. The cheat is identifiable by identification

data [026]. The verification system includes means for applying a predetermined

process to the identification data to generate verification data and verification software,

stored in the video game, for enabling the video games console to implement the cheat in response to the verification data [0026 – 0028]. The verification identification in Swanberg is the identification of the smart card and the verification data is the verification of whether the smart card is valid for the game being played.

Regarding claim 2, the predetermined process can be applied to the identification data by a processing means at a location remote from the video games console where the remote locations verifies the correct software type by the identification data of the smart card [0032].

Regarding claim 3, the processing means is part of a cheat line, where the cheat line is an Internet or other network connection to the game console [0032].

Regarding claim 4, the cheat verification system is applied to the identification data by the video games console [0026 – 0027].

Regarding claim 5, the software instructions for applying the predetermined process to the identification data are obtained from a location remote from the video games console [0032].

Regarding claim 16, the cheat verification system allows the video game console to implement different player-selectable cheats for the video game, the different player-selectable cheats being identifiable by different respective identification data and the different player-selectable cheats are identified by different selectable smart cards that the player can insert into the gaming console [0018].

Regarding claim 26, Swanberg teaches of a video game including the verification software for use in the cheat verification system [0027-0028].

Regarding claim 27, Swanberg teaches of a cheat verification method for enabling video games to implement a cheat for a video game, the cheat being identifiable by identification data, the cheat verification method including the steps of applying a predetermined process to the identification data to generate verification data and enabling the video games console to implement the cheat in response to the verification data [0026-0028].

Regarding claim 28, the predetermined process can be applied to the identification data by a processing means at a location remote from the video games console where the remote locations verifies the correct software type by the identification data of the smart card [0032].

Regarding claim 29, the processing means is part of a cheat line, where the cheat line is an Internet or other network connection to the game console [0032].

Regarding claim 30, the cheat verification system is applied to the identification data by the video games console [0026 – 0027].

Regarding claim 31, the software instructions for applying the predetermined process to the identification data are obtained from a location remote from the video games console [0032].

Regarding claim 32, the cheat verification system allows the video game console to implement different player-selectable cheats for the video game, the different player-selectable cheats being identifiable by different respective identification data and the different player-selectable cheats are identified by different selectable smart cards that the player can insert into the gaming console [0018].

Regarding claim 32, the location for the cheat verification method can be a

website [0034].

Regarding claim 39, the video game includes software arranged to enable a

video games console in which the video game has been loaded to carry out the cheat

verification method of claim 27 [0026-0028].

Regarding claim 40, the video game console software enables the video game

console to generate verification data [0026-0028].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-15, 17-25, and 33-38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Swanberg and further in view of Alexander et al. (US Patent

6,134,593).

What Swanberg teaches has been discussed above and incorporated herein.

Swanberg fails to teach of further cheat verification that involves combining the

identification data of the smart card with authorization data allocated to the player.

Such combining of data, however, is well known in the art in software distribution

methods, where the software is purchased over a communications medium such as in

an embodiment of Swanberg. Alexander who teaches of a system and a method for

electronic software distribution teaches one such example of this.

Regarding claims 6-10, 13, 15, 17-21, 24-25, and 33-36, Alexander teaches of a

system to verify software components allocated to a consumer with authorization data

allocated to a player to generate the combination data and encrypting the data to

generate the verification data (4: 24-50 and 8: 39-47). The authorization data is a

password provided by and to the consumer by the console (5: 1-12). Further, the

verification data can include an expiration date, which is also provided by the console

(7: 45-50). The console then arranges the encrypted combination data and implements

the software components (8: 58-67). The authorization data can also be saved to a

memory device of the console (4: 33-37). The system of Alexander is also capable of

applying the process to create the authorization data at a location remote from the video

games consol and the authorization data is supplied to the player via a communications

link where the communications link directly interconnects the processing means and the

video games console (7: 25-45). The communications link can be an Internet link and

the identification data is not available to the player (7: 33-40). The server can be part of

a cheat line if the company supplying the software component is part of a cheat line.

The cheat verification system can further provide a further predetermined process to generate further identification data (7: 43-50).

Alexander teaches that the purpose of the password and encryption techniques is to involve cost-effective and efficient processes for software update distribution (1: 59-67). It would be obvious for one skilled in the art to incorporate the teachings of Alexander into the game update system of Swanberg so that users can rely on other methods of purchasing additional cheats or codes for the game play. A player who wishes to purchase an additional cheat code or game update can use the system of Swanberg that unlocks game play with the addition of the system of Alexander to purchase additional unlocking cheat codes or game play and this would provide further entertainment and more profits for the game manufacturer since the game can be used to offer the player a chance to purchase additional cheats and software updates which can be implemented using the system of Alexander.

Regarding claims 11, 12, 22, 23, 37, and 38, while Swanberg nor Alexander do not explicitly state that the authorization data is a randomly generated number, a two digit number, or a four digit number, Swanberg teaches that the unlock code may be a special byte sequence [0018]. Alexander also teaches of an ASCII password (7: 50-56). Thus, between the teachings of Swanberg and Alexander are included different ways to represent the authorization data and it would be a matter of design choice for one skilled in the art to use any other form of authorization data representation since Applicant has not stated any reason or that it solves a stated problem to have a set number as the authorization data representation.

Regarding claim 14, while Alexander does not teach of using an identical predetermined process for verification and compare the results of the verification process to each other for further verification, this is a simple duplication of a process that Alexander teaches and is discussed above and would be obvious for one skilled in the art to ensure further security by checking the results of two similar verification results to ensure effectiveness in the verification.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Epshteyn whose telephone number is 571-272-5561. The examiner can normally be reached on M-F 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AE

SCOTT JONES
PRIMARY EXAMINER